

COUNTY OF YORK

MEMORANDUM

DATE: July 10, 2002 (BOS Mtg. 7/16/02)

TO: York County Board of Supervisors

FROM: James O. McReynolds, County Administrator

SUBJECT: Application No. UP-600-02, VoiceStream Wireless

ISSUE

This application requests a Special Use Permit, pursuant to Section 24.1-306 (Category 17, No. 7) of the York County Zoning Ordinance to authorize a 400-foot freestanding communications tower at the York High School campus located at 9300 George Washington Memorial Highway (Route 17) and further identified as Assessor's Parcel Nos. 24-2, 24-3, 24-5 and 24-6. Two alternative sites are under consideration. The first potential site is located on the east side of the parcel, approximately 480 feet northeast of the intersection of Route 17 and Falcon Road (Route 1254) and approximately 100 feet northwest of Falcon Road. The second potential site is located approximately 300 feet west of the intersection of Cook Road (Route 704) and Surrender Road (Route 634).

DESCRIPTION

- ? Property Owner: York County School Board
- ? Location: York High School (9300 George Washington Memorial Highway)
- ? Area: Approximately 49.6 acres
- ? Frontage: Approximately 1,015 feet on Route 17, 860 feet on Falcon Drive (Route 1254), 970 feet on Cook Road (Route 704), and 210 feet on Surrender Road (Route 634)
- ? Utilities: Public water and sewer
- ? Topography: Flat
- ? 2015 Land Use Map Designation: Conservation
- ? Zoning Classification: RC – Resource Conservation
- ? Existing Development: York High School
- ? Surrounding Development:
 - North: Surrender Road
 - East: None

South: Route 17
West: Colonial National Historical Park

? Proposed Development: 400-foot self-supporting telecommunications tower

CONSIDERATIONS/CONCLUSIONS

1. Subject to approval of this requested Special Use Permit, VoiceStream Wireless has agreed to enter into a joint venture with the County and the School Division to construct a 400-foot telecommunications tower at York High School on Route 17. The VoiceStream antennas would be located at a height of 175 feet, and the remaining 225 feet would be used to support the County's emergency communications. The new tower would replace the existing 350-foot guy-wired tower at the school, which is old, utilizes outdated technology, and is not capable of supporting the communications equipment anticipated to be purchased as part of the County's radio system upgrade project.
2. Like most of the County schools and other County-owned properties, the subject parcel is zoned RC (Resource Conservation) and is designated for Conservation uses in the Comprehensive Plan.
3. Two potential York High School sites are under consideration. One site (Option A) is on the east side of the property near Falcon Road, and the other (Option B) is in the northern corner of the property near Surrender Road. The respective characteristics, advantages, and disadvantages of each site are discussed below:
 - ? **Option A (Falcon Road)**. This site is located approximately midway between Route 17 and Cook Road, thereby mitigating the visibility of the tower from either road. The tower would be set back approximately 480 feet from Route 17 and approximately 580 feet from Cook Road. A tower in this location would, of course, be extremely visible from Falcon Road, but unlike Cook Road and Route 17, Falcon Road is not a major gateway into historic Yorktown; much if not most of the traffic on this road is either to or from the school. This area is fenced and includes a parking lot where school buses and other vehicles are parked.
 - ? **Option B (Surrender Road)**. This site is set back 250 feet from Surrender Road and is located approximately 300 feet west of its intersection with Cook Road. Although there is a vegetative buffer along Surrender Road approximately 60 feet in width, a tower in this location would still be visible from the road and from nearby areas of the Colonial National Historical Park. Visibility from Route 17 would be minimal. In addition, the County's Parks and Recreation staff has indicated that this site would conflict with future plans to construct additional athletic fields on the York High School site that are contained in the recently adopted Capital Improvements Program for Fiscal Years 2003-2008.
4. The visual impact of the existing 350-foot tower from Route 17 is significant – and significantly negative. The tower is set back from Route 17 approximately 350 feet and is supported by a vast array of unsightly guy wires. Furthermore, there is no vegetation to screen views of the tower from Route 17. Another drawback of the

existing tower is its proximity to the school building, which is within 100 feet. The tower (like the proposed tower) is designed to collapse on itself rather than fall over in the event of a severe hurricane or similar event, but there are no guarantees, and there has been at least one case of an improperly built tower elsewhere in the United States that fell over during a hurricane rather than collapsing. Locating the tower out of range of the school building would provide an extra measure of certainty that the school and those inside it will be protected. Both of the potential tower sites are more than 400 feet away from the school building.

5. The Federal Aviation Administration (FAA) will analyze the proposed tower to ensure that it will not infringe on air traffic flight patterns. If the FAA requires a permit for the construction of the tower, the applicant will need FAA approval prior to the County's final approval for construction of the tower. A condition to this effect is included as part of the approving resolution. The proposed tower in either location would not penetrate any of the air space protected by the provisions of the County's Airport Safety Overlay District.
6. As a condition of approval, the applicant will be required to submit a statement from a registered engineer certifying that NIER (non-ionizing electromagnetic radiation) emitted from the tower will not result in a ground level exposure at any point outside such facility that exceeds the maximum applicable exposure standards established by any regulatory agency of the U.S. Government or the American National Standards Institute.
7. Although the Telecommunications Act of 1996 did not preempt local zoning authority, localities are somewhat constrained in their ability to deny or delay requests for towers. Such decisions may be enjoined or overturned by the FCC or federal courts if the intent or the effect of the decision is to discriminate between types of communications service providers. They can also be overturned if the decision is not reached within a reasonable period of time, if the denial is unreasonable, or if the denial is based on public health concerns relating to radio frequency emissions. Additionally, the Act places an obligation upon localities to assist the telecommunications providers in finding a facility somewhere within the footprint (coverage area).

PLANNING COMMISSION RECOMMENDATION

The Planning Commission considered this application at its regular meeting on June 12 and, subsequent to conducting a public hearing at which four citizens spoke, voted 6:1 (Mr. Semmes dissenting) to recommend approval. In so doing, the Commission expressed a preference for the Falcon Road site (Option A). Those who spoke, including two owners of property adjacent to the school and two representatives of the National Park Service, expressed serious concerns – similar to those expressed by staff – about the Surrender Road site (Option B) because of its proximity to and visibility from the Yorktown battlefield. These concerns were shared by several of the commissioners, and there was some discussion of tabling the application. In addition, an adjacent property owner on Falcon Road expressed concern about Option A, noting that his property, which, like the school, fronts on both Route 17 and Cook Road, is subject to the TCM (Tourist Corridor Management) overlay district requirements (to a depth of 250 feet), the purpose of which is to protect the

aesthetic character of development along significant gateways into the Yorktown and Williamsburg areas.

In response to these concerns, particularly with regard to the Surrender Road site, the Department of Fire and Life Safety and the applicant have arranged to conduct a “balloon test” to allow County staff, the National Park Service, and others to gauge the visibility of the proposed tower – at heights of both 350 feet and 400 feet – at the preferred site along Falcon Road. This test is scheduled to take place on July 8th, and the results will be made available to the Board prior to the public hearing for this application. Since the Board will have the benefit of this information before making a decision on this application, most of the Commission members were satisfied that aesthetic issues surrounding the proposed tower would be given full and proper consideration.

COUNTY ADMINISTRATOR RECOMMENDATION

The existing 350-foot tower at York High School needs to be replaced in order to support the County’s enhanced emergency communications operations. It is considered a legally conforming special use and can, if necessary, be replaced in the same location, although the height could not be increased by more than 5% without approval from the Board. This application represents an opportunity to replace this highly visible eyesore with a taller yet, because of its location, less visually obtrusive structure. It is also an opportunity to use non-County funds to significantly enhance the County’s emergency communications capability. Of the two potential sites, I believe that the Falcon Road site (Option A) is the only acceptable option because of its relative lack of visibility from major gateways into Yorktown, its distance from the Colonial National Historical Park, and its compatibility with long-term athletic field plans. The Surrender Road site is simply too close to and too visible from Surrender Field and the Yorktown battlefield and, I believe, should not be considered a viable option. Therefore, based on the considerations and conclusions as noted, and pending the results of the July 8 balloon test, I recommend that the Board approve the proposed tower at the Falcon Road site (Option A) subject to the conditions set forth in proposed Resolution No. R02-140.

Carter/3337

Attachments

- ? Excerpts of Planning Commission minutes, June 12, 2002
- ? Zoning Map
- ? Site Map
- ? Site Plan – Option A
- ? Site Plan – Option B
- ? Tower Elevation
- ? Proposed Resolution No. R02-140